

**Jesse Merrithew**, OSB No. 074564

Email: jesse@lmhlegal.com

**Viktoria Lo**, OSB No. 175487

Email: viktoria@lmhlegal.com

Levi Merrithew Horst PC

610 SW Alder Street, Suite 415

Portland, Oregon 97205

Telephone: (971) 229-1241

**Juan C. Chavez**, OSB No. 136428

Email: jchavez@ojrc.info

**Brittney Plessner**, OSB No. 154030

Email: bplessner@ojrc.info

**Alex Meggitt**, OSB No. 174131

Email: ameggitt@ojrc.info

**Franz H. Bruggemeier**, OSB No. 163533

Email: Fbruggemeier@ojrc.info

Oregon Justice Resource Center

PO Box 5248

Portland, OR 97208

Telephone: 503 944-2270

**J. Ashlee Albies**, OSB No. 051846

Email: ashlee@albiesstark.com

**Whitney B. Stark**, OSB No. 090350

Email: whitney@albiesstark.com

**Maya Rinta**, OSB No. 195058

Email: maya@albiesstark.com

Albies & Stark LLC

1 SW Columbia St. Suite 1850

Portland, Oregon 97204

Telephone: (503) 308-4770

Facsimile: (503) 427-9292

**Attorneys for Plaintiffs**

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

DON'T SHOOT PORTLAND, et al.

Plaintiffs

v.

CITY OF PORTLAND, a municipal  
corporation,

Defendant.

Case No. 3:20-cv-00917-HZ

DECLARATION OF MELISSA NEL IN  
SUPPORT OF PLAINTIFF'S MOTION FOR  
CLASS CERTIFICATION  
ORAL ARGUMENT REQUESTED

I, Melissa Nel, declare as follows pursuant to 28 USC § 1746:

1. I have personal knowledge of the information contained in this declaration. If called upon to do so, I could and would competently testify regarding the matters set forth herein.
2. I am a 44-year-old Caucasian female and I lived in Milwaukie, Oregon for six years, which is where I resided during the protests. I currently live in Albany, Oregon. I work in healthcare as a patient navigator.
3. On June 2<sup>nd</sup>, 2020, the Portland Police shot me. To the best of my knowledge, the officers who used force against me were Portland Police Bureau, they were wearing uniforms that looked like PPB.
4. I had attended a march that started at Revolution Hall at 6pm with two friends. The march was for justice for George Floyd, Tony McDade, and Breonna Taylor. There were speakers at Revolution Hall and there were a lot of people so the march took a long time to get downtown.

5. I got to Pioneer Square at about 8pm, and at 8:35pm is when I got separated from my friends. I didn't want to be by myself so around 9pm—it was just becoming dusk—I started to walk back to my car and was going to cross the Morrison Bridge.

6. There had been no interaction with the police that day and Pioneer Square was filled with people. There were families with children and strollers, all of a sudden police threw up roadblocks and they started shooting tear gas and pepper bullets. This was about two blocks from Pioneer Square. They were on top of buildings shooting into the crowd.

7. I heard no announcements or warnings. I knew that they had blocked off the roads around the justice center, but I wasn't going that far over. All of a sudden there were sirens everywhere and they put up metal barriers and just started with the tear gas and bombing everyone.

8. I turned around to head back towards the square, but the police were trying to coral us into a particular area, and I couldn't get off 5th Avenue.

9. I was hit by multiple pepper bullets on my back. Most of them hit the sling bag I was wearing and one hit my lower back, left hand side, but I got no bruising from that. Obviously it felt like a sting, and because of the pepper on them and the amount of gas in the air I couldn't see. I was literally choking, I could not breathe. It was very scary and I did not have any kind of protection because that was not the vibe of the night at all.

10. I had a work meeting the next day where I was presenting, and I couldn't speak. It was like when you get laryngitis and you have that really hoarse-sounding voice. My voice was like that for 4-5 days. I was short of breath all the time, and after that entire summer my breathing has never been the same; I still suffer from shortness of breath.

11. What happened was completely unexpected. I had no idea this was going to happen and I was terrified. I peed my pants. I had no protection. I did not see anything happen that would warrant that kind of response from the police.

12. I had been going to protests every night. I'm an advocate, I've been in the healthcare industry for almost 20 years and I work with an underprivileged population.

13. Portland Police aggressively, constantly provoked people. They corralled people and put them into dangerous situations literally every night. It felt like being chased through the streets by armed people who were bent on submission. It was terrifying.

14. On July 21st, 2020, I went to a protest that started at the waterfront fountain and I was part of the wall of moms. There were speeches at the fountain and then we walked toward the justice center.

15. Not much was happening. There were a lot of people outside milling around, there were speakers. As we came through it was weird, they were like, "oh, here come the moms," and the crowd separated for us. We stood at the very front of all the people that were there at the courthouse.

16. The crowd started pushing forward and we ended up on the portico of the federal courthouse. At this point the fence was not up yet, the only thing that was up that night was they had plywood on the doors.

17. I came prepared as a medic. I work in the healthcare industry so I had a backpack with medical supplies, and on previous nights I had done that. All the officers were inside the building, when we arrived there was no one outside that I could see.

18. Other people were being aggressive: they ripped the plywood down, people were banging on the doors telling them to come out. But we were told not to tell people how to protest, we were just there as bodies to offer protection.

19. We were inside the portico for 30-35 minutes. I was standing in a line of about 10 of us at the very front and we were all standing together and linking arms. Around midnight they threw out

two flash bangs at first. The noise was incredible and my ears were ringing, you couldn't hear for a couple minutes afterwards.

20. About 15 seconds later they started with the pepper spray in a canister. I couldn't breathe even through my gas mask and goggles. Tears were just pouring down my face; it makes you feel nauseous and burns your skin. The cloud was so thick in there you couldn't see due to the amount of pepper spray.

21. And then officers came out of the building. I know that there were both federal officers and Portland Police there because I have them on video, but I don't know who I sustained injuries from.

22. Officers rushed the line of 10 of us standing there. It was crazy. I believe we were targeted simply because we were there and we were at the front. One officer rushed at me with his arm held up, he used it like a crossbar across my throat and shoved me back into a pillar. He held me against the pillar screaming in my face telling me I'm "a piece of shit" and "what did I expect?"

23. He shoved me down the steps and I moved onto the sidewalk as the officers continued to advance out of the portico of the courthouse. One of the moms I was linking with, they targeted her and grabbed her, she was wearing a skirt and they put their arms between her legs and threw her to the ground. We were screaming at them to stop touching her.

24. There was another line of officers at the end of the street just before the justice center. There was so much teargas so another mom and I crossed over into the park. I was crouching down on the ground and unzipping my backpack to put water in her eyes. At that point in time I looked up to see an officer across the street—I do not know if it was feds or PPB—point a non-lethal gun at me and I felt an impact like nothing I've ever felt before. It hit me on my left upper arm. Based on the scar it must have been a 40-caliber rubber bullet.


25. I started to run. I wanted to get in touch with someone in regards to the arrest of another woman I was with. I used the number they were giving out to report that she had been arrested so somebody knew they had taken her. I probably went home around 1 or 1:30am that night.

26. On my upper arm you could see a round area where the bullet had hit. It was incredibly sore and the bruising was extensive, all the way down my arm. I still have scarring there and the bullet did break some of my skin. That injury did develop something called a lipoma. I've seen a doctor quite a few times for cortisone shots in the shoulder and had an MRI. They recommended surgery to have this lipoma removed.

27. I believe in the continued importance of the protests and would like to attend protests in the future. I worry that I will be injured again. However, being repeatedly tear gassed and now being hit with impact munitions at close range, I fear for my life and safety while protesting.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on January 5, 2022.

  
\_\_\_\_\_  
Melissa Nel (Jan 5, 2022 11:43 PST)

\_\_\_\_\_  
Melissa Nel